

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

AARON JONAH ROSBERG,)	
)	
Plaintiff(s),)	No. C 10-1676 CRB (PR)
)	
vs.)	ORDER OF DISMISSAL
)	
SAN FRANCISCO SHERIFF'S DEPT',)	
et al.,)	
)	
Defendant(s).)	

Plaintiff, a prisoner at the San Francisco County Jail, has filed a pro se civil rights complaint under 42 U.S.C. § 1983 alleging that he is being attacked on a daily basis by "the voice of God" or "similar technology" or "weapon."

DISCUSSION

A. Standard of Review

Federal courts must engage in a preliminary screening of cases in which prisoners seek redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint "is frivolous, malicious, or fails to state a claim upon which relief may be granted," or "seeks monetary relief from a defendant who is immune from such relief." Id. § 1915A(b). Pro se pleadings must be liberally construed. Balistreri v. Pacifica Police Dep't, 901 F.2d 696, 699 (9th Cir. 1990).

To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two elements: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged violation was committed by a person acting under the color of state law. West v. Atkins, 487 U.S. 42, 48 (1988).

B. Legal Claims

Section 1915A accords judges the unusual power to pierce the veil of the complaint's factual allegations and dismiss as frivolous those claims whose factual contentions are clearly baseless. Denton v. Hernandez, 504 U.S. 25, 32 (1992). Examples are claims describing fantastic or delusional scenarios with which federal district judges are all too familiar. See Neitzke v. Williams, 490 U.S. 319, 328 (1989). Generally speaking, a finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them. See Denton, 504 U.S. at 32-33.

Plaintiff's allegations that he is being attacked on a daily basis by "the voice of God" or "similar technology" or "weapon" describes a delusional scenario which will be dismissed under the authority of § 1915A(b). The facts alleged rise to the level of the irrational or wholly incredible. See id.

CONCLUSION

For the foregoing reasons, the complaint is DISMISSED as factually frivolous under the authority of 28 U.S.C. § 1915A(b).

The clerk shall enter judgment in accordance with this order, terminate all pending motions as moot, and close the file.

SO ORDERED.

DATED: April 27, 2010


 CHARLES R. BREYER
 United States District Judge